Elective Home Education Policy

City of Westminster

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

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1. Status of this document

This document is the policy that the Bi-borough Children's Services will follow regarding elective home education (EHE).

The policy clarifies how the Bi-borough local authorities (LAs) - Westminster and Kensington and Chelsea - will carry out their duties in respect of children who receive their education at home from their parents/carers or from tutors employed by them.

The policy has not changed since 2015 but has been updated in areas to reflect changes in the administrative responsibilities due to internal service structure changes, and to take account of central government elective home education guidance - issued April 2019[1].

Parents/carers who have chosen to, or are considering, educating their child/ren outside the school system may find it useful to read this policy but it is primarily the EHE "*Guidance for parents'* document that is intended to provide information and advice to parents/carers on how to proceed, what to consider and who to contact for further support and advice.

The Bi-borough Admissions and Access to Education Team carries out the LA duties regarding EHE. Contact details for the team are:

Admissions and Access to Education Team
Bi-Borough Children's Services,Kensington Town Hall
Hornton Street, London W8 7NX
Tel: 020 8753 2877

2. Introduction

Elective home education is the term used to describe parents'/carers' decision to provide education for their children at home, instead of sending them to school. This is different to home tuition provided by the local authority or education provided by the local authority other than at school.

The purpose of this policy is to support LA officers in carrying out their statutory responsibilities and to encourage good practice by setting out the legislative position and the roles and responsibilities of LAs and parents/carers in relation to children educated at home.

The LA recognises that there are many approaches to elective home education and parents/carers education provision will reflect a diversity of approaches which will be respected.

To support parents/carers in their journey of home education, the Royal Borough of Kensington and Chelsea and Westminster City Council provide a helpful '*Home Educator Information Guide*' The guidance provides a wide range of services that may be of interest.

https://www.rbkc.gov.uk/education-and-learning/elective-home-education

[1] https://www.gov.uk/government/publications/elective-home-education

3. The law relating to Elective Home Education

Section 7 of the Education Act 1996 states

- The responsibility for a child's education rests with their parents/carers. In England, education is compulsory, but school is not.

"The parent of every child of compulsory school age shall cause him/her to receive efficient full-time education suitable:

(a) to his/her age, ability and aptitude, and

(b) to any special educational needs he/she may have, either by regular attendance at school or otherwise."

*There is no actual definition in law on what is '**efficient'** and **'suitable**' education. Caselaw[2] has broadly described 'efficient' as education that "achieves that which it sets out to achieve", and a "suitable" education is one that "primarily equips a child for life within the community of which he is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so."*

There is no legal definition of "full-time". Children attend school for 25 hours a week for 38 weeks of the year, which many parents/carers who are EHE find a useful guide, but there is no set amount of hours that EHE has to take place.

4. Local Authorities' Responsibilities

- The LA should have designated officers whose responsibilities cover EHE and will be familiar with home education law, policies and practices.

- The LA has a duty under section 436A of the Education Act 1996, inserted by the Education and Inspections Act 2006, to make arrangements to establish the identities, so far as it is possible to do so, of the children in their area who are not receiving a suitable education.

- This duty applies in relation to children of compulsory school age who are not on a school roll and when the LA does not know if a child is receiving a suitable education otherwise than being at school. The parents/carers of all children identified as such will be contacted by the LA's Access to Education Team to establish if assistance is required to enrol at a school or provide guidance on EHE and the process to register.

- Under Section 437 (1) of the Education Act 1996 the LA will intervene *if it appears that **a child is not receiving*** a suitable education but prior to initiating any legal interventions the LA will endeavour to work with parents/carers and will seek to gather any relevant information that will assist the LA in reaching an informed judgement on whether the education being provided is suitable or not.

2 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pd

- Information may include a report from a child's school (if they have been at one) prior to a decision to EHE *or* a report from a member of the Admissions and Access to Education Team, if the parents/carers are prepared to discuss their reasons for EHE or to provide any relevant contextual information.

- In addition for evidencing suitable learning, an EHE Assessor will offer to meet with EHE families that elect to home educate. This meeting can be arranged face-to-face in the home or at an agreed alternative venue, such as the local library. If preferred, a meeting can be held virtually using Teams/Zoom or any other secure and approved means of meeting virtually that works for both parties.

- Following any contact with parents/carers, the LA will produce a brief evaluative report that will be shared with parent/carers. For children with an Education, Health and Care (EHC) Plan the report will also be sent to the SEN Service.

- Where concerns about the suitability of the education have been identified, more frequent contact between the LA and parents/carers may be arranged while the concerns are being addressed. If the provision is deemed unsatisfactory then a follow up visit will be arranged within 6 weeks to check the required improvements have been made. If there are no concerns annual contact will be offered.

- Parent/carers who would not wish to meet with the Assessor are asked to submit their education philosophy and evidence of their child's work. If support is being provided by a tutor, or other professional involved in the delivery of the education, an endorsement can also be provided as part of the evidence to be assessed.

- If, after all reasonable steps have been taken to consider the situation, the LA believes that there is insufficient evidence that a suitable education is being provided by the parents/carers, and a Notice (which gives no less than 15 days to respond) has been served, the LA may serve a ***School Attendance Order under Section 437 (3) of the Education Act 1996.***

- *"If –*

  (a) a parent on whom a notice has been served under subsection (1) fails to satisfy the local education authority, within the period specified in the notice, that the child is receiving suitable education, and

  (b) in the opinion of the local authority it is expedient that the child should attend school, the authority shall serve an order (referred to in this Act as a "school attendance order"), in such a form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order"

- In accordance with issued department guidance[2] in considering whether it is satisfied by the parent's response to the s.437(1) notice, the authority will consider any other relevant information available to it. This may be through own contacts with the family, information provided by other agencies and other sources and the child's former school (if any), as to the child's circumstances and needs. Reasonable weight will be

given to information provided by parents, on its own merits. Any submission provided by parents should demonstrate that the education actually being provided is suitable and address issues such as progression expected and achieved. The Authority will seek to take account of the child's views as one of the factors informing the consideration of educational suitability.

- At any stage after a School Attendance Order (SAO) has been issued a parent can present information to show suitable education which will prompt the SAO being revoked.
- EHE registrations will not be processed for children who have returned to school following a School Attendance Order, and/or where they were returned to school through the Local Authority. These children will be recorded as Children Missing Education, unless there is evidence of a substantive change in circumstances.

5. Special Educational Needs (SEN)

- Under Section 7 of the Education Act 1996 parents have the right to educate children, including children with SEN, at home. Home education **must** be suitable to the child's age, ability, aptitude and SEN.

- Parents'/carers' right to EHE applies equally where a child has an Education Health Care (EHC) plan.

- Where a child has an EHC plan and is EHE, it remains the LA's duty to ensure that the child/young person's needs are met.

- The LA will have regard to the statutory guidance contained within Special Educational Needs and Disability Code of Practice 2015 (s10.30) which emphasises the importance of LAs and other providers working in partnership with parents. Further information in relation to children and young people with SEN who are home educated can be found in s10.30 –s10.38 of the code of practice.[3]

- It is important to note that where the LA and parents agree that home education is the right provision for a child or young person with an EHC plan, the plan should make it clear that the child or young person will be educated at home. Under Section 42(2) of the Children and Families Act 2014, the LA must arrange the special education provision set out in the plan.

- However, if the EHC plan gives the name of a school or type of school where the child will be educated and the parents decide to educate at home, the LA is not under a duty to make the special educational provision set out in the plan provided it is satisfied that the arrangements made by the parents are suitable. The LA must review the plan annually to assure itself the provision is appropriate and meeting the child's needs.

- If the child/young person is attending a special school, the LA must give consent for the child's name to be removed from the school roll. There is no provision in law for a trial period of home education.

- The LA should not assume that because the provision being made by parents is different from that which was being made or would have been made in the school that the provision is necessarily unsuitable. The LA should also consider using their power to help parents make suitable provision.

- Young people may also be educated at home in order to meet the requirements to participate in education and training until the age of 18.

3 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf

6. Safeguarding and Child Protection

- The LA has a duty under the section 175 (1) of the Education Act 2002 to safeguard and promote the welfare of children. This section states:

  "*A local authority shall make arrangements for ensuring that the functions conferred upon them in their capacity as a local authority are exercised with a view to safeguarding and promoting the welfare of children"*

- Although S175 (1) does not give the LA powers to enter the homes of or otherwise see children for the purposes of monitoring the provision of EHE, S10 and S11of the Children Act 2004 gives powers to allow LAs to insist on seeing children in order to enquire about their welfare where there are grounds for concern (sections 17 and 47 of the Children Act 1989)

- Although there is no obligation on the LA to ascertain the child's wishes and feelings about EHE in particular, S 53 of the Children Act 2004 sets out the duty on LAs to, where reasonably practicable, take into account the child's wishes and feelings.

- The safeguarding, wellbeing, welfare and protection of children are of paramount importance and a shared responsibility between key professionals and the community as a whole. If any officer of the LA becomes aware or has information that indicates a child is at risk or that their wellbeing is being impaired, consultation and a referral will be made in accordance with agreed national guidance and local agreed child protection procedures.

8. Locally agreed roles and responsibility of the Admissions and Access to Education Team and schools in relation to EHE

- The LA should have a designated officer within the Admissions and Access to Education Team whose responsibilities cover EHE and will be familiar with home education law, policies and practices.

- If notification is received by the service area that a child or children are being EHE, a letter will be sent to parents/carers outlining the LA's agreed procedures and a request for the completion of a questionnaire.

- The head teacher of a school is required to immediately inform the team of any child on their school roll whose parents/carers have confirmed in writing their intention to EHE[4].

- The head teacher will be asked to complete a brief report '*Background information report for children being electively home educated'*, providing details of the child, their previous education history etc. and forward this to the Admissions and Access to Education Team.

- The child's name should **NOT** be removed from the school roll until this report has been received, although removal of the child's name from the school roll can be backdated as appropriate, once the Access to Education Team have received parent/carers confirmation of their intention to EHE and the schools report.

- **School staff are advised not to seek to persuade parents to EHE as a way of avoiding exclusion or because a child may have a poor attendance record.**

[4] The Education (Pupil Registration) Regulations 2006